

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	
)	
v.)	Criminal No. 05-10102-JLT
)	
)	
JOHN BRUENS, MARY STEWART, MARC)	Oral Argument Requested
SIROCKMAN, MELISSA VAUGHN)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR SEVERANCE OF THE COUNTS UNDER RULE 14

Pursuant to Federal Rule of Criminal Procedure 14, defendants John Bruens, Mary Stewart, Marc Sirockman, and Melissa Vaughn (“the defendants”) hereby move this Court to sever Count 1 (the “conspiracy count”) from Counts 2 through 8 (the “substantive counts”) of the Indictment for separate trial. As more fully set forth in the accompanying Memorandum in Support of Defendants’ Motion for Severance of the Counts, where joinder of offenses unduly prejudices a defendant by allowing evidence that would be inadmissible in a separate trial, severance is essential to protect the defendant’s right to a fair trial. See Fed. R. Crim. P. 14(a), and United States v. Scivola, 766 F.2d 37, 41-42 (1st Cir. 1985). Here, defendants will be unfairly prejudiced by a trial of the conspiracy and substantive counts together, because the bulk of the evidence, co-conspirator statements, would be inadmissible in a trial of the substantive counts alone.

For these reasons, defendants respectfully request that the Court grant this motion to sever the conspiracy count from the substantive counts in the Indictment.

Respectfully submitted,

**JOHN BRUENS, MARY STEWART,
MELISSA VAUGH, and MARC SIROCKMAN,**

By their undersigned attorneys.

/s/ McKenzie E. Webster
Tracy A. Miner
McKenzie E. Webster
Counsel for Marc Sirockman

/s/ Thomas McC. Souther
Thomas McC. Souther
Counsel for John Bruens

/s/ Mark A. Berman
Mark A. Berman
Counsel for Mary Stewart

/s/ Adam. S. Hoffinger
Adam S. Hoffinger
Counsel for Melissa Vaughn

Dated: September 19, 2006

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing motion was filed electronically in compliance with ECF procedures on this 19th day of September 2006.

/s/ McKenzie E Webster
McKenzie E Webster